

IN THE COURT OF THE FIRST ADDL DISTRICT JUDGE
RANGA REDDY DISTRICT AT L.B.NAGAR

I.A.No.1644 of 2008

In

O.S.No.555 of 2008

Between

V Nagamani and others

Petitioners-plaintiffs

And

V Rajamani and others

Respondents-defendants

COUNTER AFFIDAVIT FILED BY RESPONDENT No.6

I, Pravesh son of Sri Bharat S Parikh aged 29 years, R/o Dwarkadas Cooperative Society, Begumpet, Hyderabad, do hereby solemnly affirm and state on oath as under.

1. That I am the respondent no.6 herein and am also looking after the above matter on behalf of respondents 5 to 7 and as such well acquainted with the facts of the case and am able to depose as under.
2. I have gone through the contents of the plaint and the affidavit filed along with petition under Order 39 Rule 1 and 2 r/w Sec 151 CPC. It is pertinent to note that the suit schedule property and especially the land in sy.Nos.44 and 45 totally admeasuring Ac. 1-25 gts i.e, Ac. 0.29 gts in sy.No.44 and Ac.0.36 gts in sy.No.45 have in fact been alienated in the year 2003 itself by Smt. V Rajamani, Sri Srinivasa Chary and Sri Brahma Chary i.e, respondents 1 to 3 along with the other pattedar Sri Vadla Satyanarayana under registered sale deed being document No.8328/03 dt.11.7.03 in favour of P Madhav Yadav. The said P Madhav Yadav in turn has sold the portion purchased from V Rajamani and others in sy.No.45 along with other adjacent portions in favour of respondents 5, 6 and 7. The other adjacent portion was also included in the said sale deed and as such the other pattedars also joined along with P Madhav Yadav in respect of the said sale deed in favour of respondents 5 to 7.
3. The respondents 5 to 7 in turn have entered into a Development Agreement dt.10.5.07 being document No. 6334/07 in respect of the said property with Mehta & Modi Homes. It is pertinent to note that the purchasers of the property from Smt. V Rajamani had got the property mutated in their respective names in the revenue record vide proceedings No.749/2004 dt.26.9.2004. Likewise the property has also been mutated in the name of respondents 5 to 7 vide proceedings No.B1/1717/07

property has already been dealt with long ago and has been in possession of strangers to the family as explained herein above.

In fact portion of land in sy.No.44 which was purchased by defendant No.4 P Madhav Yadav was sold to Pratika P Bhutt under a registered sale deed dt. 25.5.06 being document No.7875/06. The said Pratika P Bhutt in turn has sold the same to Mehta & Modi Homes under a registered sale deed dt.31.7.07 being document no.9268/07. The said Mehta & Modi Homes have taken the land in sy.No.45 for development as mentioned herein above. In view of the above facts and circumstances, the present application is infructuous and deserves to be dismissed in limini.

4. Without prejudice to the above submissions, this respondent submits as follows in so far as the allegations made in paras 1 to 9 of the affidavit are concerned. There is no dispute that originally late V Venkataiah was the owner of certain extent of land in sy.Nos.44 and 45 and that ORC certificate was issued in his name in respect of the same. However, the other allegations made in paras 4 to 9 of the affidavit are incorrect and false. The allegation that along with respondents 1 to 3, the petitioners also succeeded to the property of late V Venkataiah being his heir is incorrect and false. The alleged relationship is hereby specifically denied. It is pertinent to note that the rights under occupancy certificate are limited to the extent of persons whose names are mentioned therein. In any case when the alleged relationship itself is in dispute, the petitioners are not entitled to make any such claim. Even it is presumed that the property was alleged joint family property, the petitioners herein could not have made a claim, as admittedly they would not have been entitled for any share under the provisions of Hindu Succession Act, AP amendment. In the circumstances the allegation that the petitioners would also be entitled to 1/6th share in the suit schedule property is hereby specifically denied as false and fabricated and the petitioners are put to strict proof of the same.

5. As explained herein above the property has already been dealt with in 2003 itself and as such there is no question of any such alleged partition being sought for by the petitioners and the alleged refusal on the part of respondents 1 to 3 in that respect. All the said allegations made are self serving allegations being made without any sort of substance and the same are, therefore, hereby specifically denied.

6. It is pertinent to note that after taking the property for development, the developers i.e, Mehta & Modi Homes have obtained permission from Hyderabad Urban Development Authority and full-fledged construction of individual residential houses is in progress on the suit schedule property. Admittedly the developers have not been made parties to the suit. In fact a plain reading of the plaint would show that the petitioners are not really aware as to the true state of affairs on the suit schedule

property. Thus viewed from any angle there is absolutely no substance in any of the allegations made in the plaint or in the affidavit under reply. No prima facie case, therefore, can be presumed in favour of the petitioner nor the balance of convenience is in their favour. The application thus being absolutely devoid of merits deserves to be dismissed with exemplary costs.

Sworn and signed before me on this the _____ day of _____
July, 2008 at Hyderabad.

Deponent

Advocate - Hyderabad

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BY RESPONDENT No.6

Filed on: -7-2008
Filed by:
M/s M Papa Reddy
Sunil B Ganu
Manjiri S Ganu
Counsel for respondents
5 to 7